



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/067,234	04/27/98	CRESCENTINI	L 316-981P

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OM41/0709

**EXAMINER**

OLEKSA, D

**ART UNIT**

**PAPER NUMBER**

3741

**DATE MAILED:**

07/09/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/067,234**

Applicant(s)  
**LYNDA N. CRESCENTINI**

Examiner  
**Diana Oleksa**

Group Art Unit  
**3741**



☒ Responsive to communication(s) filed on May 25, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) 2, 7, 10, 13, and 19 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 3-6, 8, 9, 11, 12, 14-18, and 20-23 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Apr 27, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3741

1. Applicant's election without traverse of species II, VI, V, and VII in Paper No. 3 is acknowledged.
2. Claims 2, 7, 10, 13, and 19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to non-elected species. Election was made **without** traverse in Paper No. 3. ✓
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the distinctive patterning or design or symbolic pattern of claims 11, 12, 14, 15, and 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
4. The disclosure is objected to because of the following informalities: It appears that 20", of page 5 line 27, should instead read 30". ✓

Appropriate correction is required.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 3-6, 8, 9, 11, 12, 14-18, and 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. ✓

With regard to claims 1, 3-6, 8, and 9, it is not agreed that these claims read on the elected embodiment. The applicant elected to prosecute the embodiment of her invention comprising a

Art Unit: 3741

helmet formed on a male form wherein the solidifiable plastic composition layer is opaque and wherein the pretreatment step of putting pattern on the face of the sheet is performed by silk-screening. Claim 1, as it has now been amended, includes the limitation of a solidifiable plastic composition layer which is translucent (see lines 6-8). Such limitation is directed to nonelected species III. Thus, the metes and bounds of claims 1, 3-6, 8, and 9 are unclear and indefinite. Accordingly, claims 1, 3-6, 8, and 9 have not been further treated on the merits.

With regard to claim 11, the meaning of the term "distinctive patterning", of line 3, is not specifically understood. ✓

With regard to claim 12, "the distinctive pattern", of lines 2-3, has no antecedent. ✓ Further, it is unclear whether this claim is directed to a protective headgear or whether it is directed to plastic composition material carrying a distorted configuration. The preamble of the claim is clearly directed to a protective headgear. Yet, the body of the claim is directed to plastic composition material carrying a distorted configuration. Accordingly, this claim has not been further treated on the merits. } Not corrected

With regard to claim 14, the meaning of the term "pattern symbolizing the wearer of the headgear" is not specifically understood. Further, it appears that "the wearer of the headgear", of lines 2-3, should instead read "a wearer of the headgear" since the reference to a wearer of the headgear is incidental and is not a specific limitation in the claim. Finally, claim 14 has not been further treated on the merits since it depends from claim 12. ✓ ✓ ✓

Art Unit: 3741

With regard to claim 15, the meaning of the term "one of those layers", of line 5, is not specifically understood. Further, the meaning of the term "distinctive design", of line 7, is not specifically understood.

With regard to claim 17, it is unclear what the term "its" references.

With regard to claim 20, it is unclear whether this claim is directed to a headgear or whether it is directed to a plastic material carrying a distorted pattern. The preamble of the claim is clearly directed to a headgear. Yet, the body of the claim is directed to a plastic material carrying a distorted pattern. Accordingly, claim 20 has not been further treated on the merits.

With regard to claim 21, the body of this claim is directed to a method of making a headgear. Method limitations are inappropriate in structural claims. Accordingly, claim 21 has not been further treated on the merits.

With regard to claim 22, "the resulting undistorted pattern", of line 3, has no antecedent.

With regard to claim 23, the body of this claim is directed to a method of making the headgear. Method limitations are inappropriate in structural claims. Accordingly, claim 23 has not been further treated on the merits.

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 21 and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are directed to neither process or

Art Unit: 3741

machine but rather embrace or overlap two different statutory classes of invention set forth in 35 USC 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. ✓

9. Claims 11, 15, 17, and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,008,949 shows a layered helmet structure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Oleksa whose telephone number is (703) 308-0890. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached at (703) 305-1025. The fax number for this Group is (703) 308-0758.

Application/Control Number: 09/067,234

Page 6

Art Unit: 3741

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist whose telephone number is (703) 308-0861.



D. OLEKSA  
PRIMARY EXAMINER  
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db

July 2, 1999

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